IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4385 OF 2006

Taranjit Singh Sahni .. Applicant.

V/s.

State of Maharashtra .. Respondent.

Shri.S.P.Kadam for the applicant.

Shri.Sayaji Nangre for the original complainant.

Shri.P.A.Pol, A.P.P. for the state.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH DECEMBER, 2006.

P.C.:

1. Heard Shri.Kadam appearing for the applicant and the learned A.P.P. for State so also the learned Advocate for the original complainant.

2. Perused the application and the annexures thereto.

3. Shri.Kadam, learned counsel appearing for the

applicant states that the applicant is apprehending arrest in connection with C.R.No.587 of 2006 registered by Oshiwara Police Station alleging offences punishable u/s.324, 365, 342 r/w. Sec.34 of I.P.C. and Sec.37(1)(A) of Bombay Police Act.

4. The applicant's application for anticipatory bail was rejected by the trial court on 22nd November, 2006. However, the applicant is not arrested. He has reported to the concerned police station.

5. The applicant's alleged role in the case is not of assualting the complainant but the allegation is that the assualt took place at his instance. He is the owner of the property which has been put in possession of the complainant. The custodial interrogation according to the prosecution is necessary to ascertain as to whether there was a transaction and the applicant put the complainant in possession pursuant to any arrangement etc.

6. Shri.Kadam states that all the documents are in the custody of the Investigating Machinery. Further co-accused, who have assaulted the complainant were arrested but they are enlarged on bail. The Additional

Sessions Judge while enlarging them on bail has observed that the complainant could not show that he was in lawful possession of the premises. The attempt was made to record the statement of neighbourers but it appears that all neighbourers have stated that they are not aware who is occupying flat No.502.

7. In my view when all investigations are more or less complete, co-accused arrested and enlarged on bail so also the complainant discharged from the hospital on 25th November, 2006, custodial interrogation of the applicant is not necessary. No attempt was made by the prosecution to arrest the applicant despite his application being rejected by the Additional Sessions Judge on 22nd November, 2006. In such circumstances and when civil disputes are also pending so also proceedings u/s.145 of Cr.P.C., it would be appropriate to grant pre-arrest bail to the applicant but with stringent conditions.

8. Hence, the following order : -

i) In the event of the arrest of applicant in connection with C.R.No.587 of 2006 registered with

Oshiwara Police Station, the applicant shall be enlarged on bail in the sum of Rs.50,000/- (Rs.Fifty thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant to forthwith surrender his passport, if any, to the I.O. The applicant shall not leave Mumbai city without prior permission of trial court. The applicant shall report to the concerned police station once a week on every Monday between 11.00 a.m. and 1.00 p.m. till the charge sheet is filed and thereafter as directed by the trial court till conclusion of trial.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will ensure to the benefit of the applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.Dharmadhikari, J.)